

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO

WILSON, ET AL,

Petitioners

v.

WILLIAMS, ET AL,

Respondents

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CASE NO. 4:20-CV-00794

JUDGE GWIN

DECLARATION OF SARAH A. DEES

I, Sarah A. Dees, do hereby declare, certify and state as follows:

1. I am employed by the United States Department of Justice, Federal Bureau of Prisons (BOP). I currently work as the Health Services Administrator at Federal Correctional Institution (FCI) Elkton in Lisbon, Ohio. I have held this position since January 5, 2020. I also serve as the Northeast Regional Paramedic, a position I have held since 2016. I have been employed by BOP since 2013. Throughout this declaration, when I refer to “FCI Elkton” generally, I am referring to both of the FCI Elkton institutions, the Federal Correctional Institution (FCI) and the Federal Satellite Low (FSL).

2. In my position as Health Services Administrator at FCI Elkton, I am responsible for coordinating comprehensive medical, dental, and mental health services of the highest quality while maintaining a clean, safe, and secure environment for nearly 2500 low security inmates and in addition to staff. The Health Services Department is staffed by a comprehensive team of BOP and Public Health Service health care workers, accompanied by professional contract staff committed to providing the highest standards of professionalism and dedication to the inmate population. FCI Elkton offers comprehensive ambulatory care addressing primary care, chronic

care, emergent care and acute care. Additionally, minor office-based procedures, diagnostic testing, specialty consultations and office based dental procedures are provided in house.

3. I have been asked to discuss FCI Elkton's efforts to combat the Coronavirus Disease 2019 (COVID-19) pandemic, the current state of inmate testing and health, and other issues related to those topics.

4. The Federal Correctional Institution ("FCI" or "Main Complex") is a low security facility with a double-fenced perimeter, mostly dormitory or cubicle housing, with strong work and program components. The FCI has six units that are open dorm style, two television rooms, one area for Trulinks (email) stations, and two rooms that can house ten to twelve inmates each. The showers and bathrooms are communal. The main complex and the FSL are separate facilities, and the inmate populations do not interact. The staff-to-inmate ratio in an FCI is higher than in minimum security facilities. As of May 8, 2020, FCI Elkton houses 1, 961 male offenders.

5. The Federal Satellite-Low ("FSL") is a low security facility with a single-fenced perimeter, cubicle housing, and strong work and program components. The FSL is a large dormitory that is divided into sections with double bunks inside cubicles. There are two areas that have communal showers and bathrooms. There are tables in the front of the dormitory for watching television. There is also an area in front of the dormitory that has exercise equipment, law and leisure library, and offices. Food services, psychology services, medical, education and visiting is in a separate building. As of May 8, 2020, the FSL houses 406 male offenders.

6. As I stated in my previous declaration in this matter, I am involved on a daily basis in the identification, planning, and implementation of all BOP directives for preventing the spread of COVID-19 at FCI Elkton, including FSL Elkton. Through this role, I have knowledge of both

the BOP's national directives relating to COVID-19 and the additional steps that FCI Elkton, specifically, has taken to combat COVID-19 within the facility. Accordingly, through the course of my official duties, I have personal knowledge regarding the numerous measures, discussed below, that have been implemented both BOP-wide and at FCI Elkton in order to prevent and manage the spread of COVID-19.

#### **NATIONAL STEPS TAKEN BY BOP TO ADDRESS COVID-19<sup>1</sup>**

7. As I stated in my previous declaration in this matter, before discussing the steps being taken at FCI Elkton, specifically, I will first discuss the phases of the BOP's national response to the COVID-19 pandemic, which apply generally across all BOP institutions. As set forth below, the BOP has taken—and is continuing to take—significant measures in response to the COVID-19 pandemic in order to protect the safety and security of all staff and inmates, as well as members of the public.

8. In January 2020, the BOP became aware of the first identified COVID-19 cases in the United States and quickly took steps to prevent its introduction and spread in BOP institutions. The BOP's response, detailed below, has occurred over six distinct “phases” to date. The BOP will continue to modify and adjust its response as circumstances change, and at the guidance and direction of worldwide health authorities.

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<sup>1</sup> BOP has established a COVID-19 resource section on its public webpage which is available at: <https://www.bop.gov/coronavirus/>. This webpage includes updates on the BOP's response to COVID-19 and positive COVID-19 tests among inmates and staff at BOP institutions nationwide.

## **ACTION PLAN FOR COVID-19 – PHASE ONE**

9. In January 2020, the BOP began Phase One of its Action Plan for COVID-19. Phase One activities included, among other things, seeking guidance from the BOP’s Health Services Division regarding the COVID-19 disease and its symptoms, where in the United States infections were occurring, and the best practices to mitigate its transmission. *See* [https://www.bop.gov/resources/news/20200313\\_covid-19.jsp](https://www.bop.gov/resources/news/20200313_covid-19.jsp). In addition, an agency task force was established to begin strategic planning for COVID-19 BOP-wide. This strategic planning included building on the BOP’s existing procedures for pandemics, such as implementing its pre-approved Pandemic Influenza Plan. From January 2020 through the present, the BOP has been coordinating its COVID-19 efforts with subject-matter experts both internal and external to the agency, including implementing guidance and directives from the World Health Organization (WHO), the Centers for Disease Control and Prevention (CDC), the Office of Personnel Management (OPM), the Department of Justice (DOJ), and the Office of the Vice President. *See* [https://www.bop.gov/resources/news/20200313\\_covid-19.jsp](https://www.bop.gov/resources/news/20200313_covid-19.jsp).

## **ACTION PLAN FOR COVID-19 – PHASE TWO**

10. On March 13, 2020, the BOP implemented Phase Two of its Action Plan. Phase Two put into place a number of restrictions across all BOP facilities over a 30-day period, to be reevaluated upon the conclusion of that time period. Specifically, the BOP suspended the following activities for an initial period of 30 days, with certain limited exceptions: social visits; legal visits; inmate facility transfers; official staff travel; staff training; contractor access; Volunteer visits; and tours. *See* [https://www.bop.gov/coronavirus/covid19\\_status.jsp](https://www.bop.gov/coronavirus/covid19_status.jsp).

11. During Phase Two, inmates were subjected to new screening requirements. Specifically, all newly arriving BOP inmates were screened for COVID-19 symptoms and

“exposure risk factors,” including, for example, if the inmate had traveled from or through any high-risk COVID-19 locations (as determined by the CDC), or had had close contact with anyone testing positive for COVID-19. Asymptomatic inmates with exposure risk factors were quarantined, and symptomatic inmates with exposure risk factors were isolated and evaluated for possible COVID-19 testing by local BOP medical providers.<sup>2</sup>

12. Staff were also subjected to enhanced health screening in areas of “sustained community transmission,” as determined by the CDC, and at medical referral centers. On March 22, 2020, FCI Elkton implemented this enhanced screening for staff and contractors at that time. The enhanced screening measures required all staff to self-report any symptoms consistent with COVID-19, as well as any known or suspected COVID-19 exposure, and further required all staff to have their temperature taken upon entry into any BOP facility.

13. Finally, in addition to the measures listed above, the BOP implemented national “modified operations” in order to maximize social distancing within BOP facilities. These modifications included staggered meal and recreation times in order to limit congregate gatherings. Additionally, the BOP established a set of quarantine and isolation procedures for known or potential cases of COVID-19.

14. FCI Elkton implemented this “modified operations” directive in a number of ways. For example, and among other things, FCI Elkton: (1) instituted “grab and go” meals for inmates, meaning that inmates were permitted to pick up pre-packaged meals at designated times, but had to return to their housing units in order to eat; scheduled staggered mealtimes, so that only a single housing unit (approximately 150 inmates) are moving within the facility at any

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<sup>2</sup> Throughout this declaration, “isolation” refers to a symptomatic inmate being confined to the FCI Visiting Room and FSL G-A Housing Unit. “Quarantine,” on the other hand, refers to asymptomatic inmates who are confined to four areas at FCI Elkton: the gym, chapel, Special Housing Unit (SHU), or FSL visiting room.

particular time; and (2) Health Services pill line (controlled medication dispensing) and (3) commissary are accomplished during these times as well.

#### **ACTION PLAN FOR COVID-19 – PHASE THREE**

15. On March 18, 2020, the BOP implemented Phase Three of the COVID-19 Action Plan for BOP locations that perform administrative services (i.e., non-prison locations), which followed DOJ, Office of Management and Budget, and OPM guidance for maximizing telework. In this phase, individuals who had the ability to telework and whose job functions did not require them to be physically present were directed to begin teleworking.

16. Additionally, as part of this phase, and in accordance with the Pandemic Influenza contingency plan, all cleaning, sanitation, and medical supplies were inventoried. *See* [https://www.bop.gov/resources/news/pdfs/20200324\\_bop\\_press\\_release\\_covid19\\_update.pdf](https://www.bop.gov/resources/news/pdfs/20200324_bop_press_release_covid19_update.pdf).

#### **ACTION PLAN FOR COVID-19 – PHASE FOUR**

17. On March 26, 2020, the BOP implemented Phase Four of its Action Plan. In Phase Four, the BOP revised its preventative measures for all institutions. Specifically, the agency updated its quarantine and isolation procedures to require all newly admitted inmates to The BOP, whether in areas of sustained community transmission or not, to be assessed using a screening tool and temperature check (further explained below). This screening tool and temperature check applied to all new intakes, detainees, commitments, prisoners returned on writ from judicial proceedings, and parole violators, regardless of their method of arrival. Thus, all new arrivals to any BOP institution—even those who were asymptomatic—were placed in quarantine for a minimum of 14 days or until cleared by medical staff. Symptomatic inmates were placed in isolation until they tested negative for COVID-19 or were cleared by medical staff as meeting CDC criteria for release from isolation.

## **ACTION PLAN FOR COVID-19 – PHASE FIVE**

18. On March 31, 2020, the Director of the BOP ordered the implementation of Phase 5 of its COVID-19 Action Plan, which took effect on April 1, 2020. Specifically, the Director ordered the following steps to be taken:

- A. For a 14-day period, inmates in every institution will be secured in their assigned cells/quarters to decrease the spread of the virus.
- B. During this time, to the extent practicable, inmates should still have access to programs and services offered under normal operating procedures, such as mental health treatment and education.
- C. In addition, the BOP is coordinating with the United States Marshals Service (USMS) to significantly decrease incoming movement during this time.
- D. After 14 days, this decision will be reevaluated and a decision made as to whether or not to return to modified operations.
- E. Limited group gathering will be afforded to the extent practical to facilitate commissary, laundry, showers, telephone, and Trust Fund Limited Computer System (TRULINCS<sup>3</sup>) access.
- F. Provided inmates access to programs and services offered under normal operating procedures, such as mental health treatment and education.
- G. In addition, the BOP coordinated with the United States Marshals Service (USMS) to

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<sup>3</sup> TRULINCS is the internal BOP computer and electronic message platform that inmates use to communicate with staff in the institutions and individuals in the community. Through this platform, inmates receive updates, notices, and can read inmate bulletins posted on the system by BOP staff.

significantly decrease incoming movement during this time.

*See [https://www.bop.gov/resources/news/20200331\\_covid19\\_action\\_plan\\_5.jsp](https://www.bop.gov/resources/news/20200331_covid19_action_plan_5.jsp).*

#### **ACTION PLAN FOR COVID-19 – PHASE SIX**

19. On April 13, 2020, the Director of the BOP ordered the implementation of Phase 6 of its COVID-19 Action Plan. Specifically, the Director ordered an extension of the nationwide action in Phase 5, which applies to medical screening, limited inmate gathering, daily rounds, limited external movement, and fit testing, until May 18, 2020. *See [https://www.bop.gov/resources/news/pdfs/20200414\\_press\\_release\\_action\\_plan\\_6.pdf](https://www.bop.gov/resources/news/pdfs/20200414_press_release_action_plan_6.pdf)*

20. Phase Six has been implemented at FCI Elkton.

#### **STEPS TAKEN AT FCI ELKTON TO ADDRESS COVID-19**

21. In addition to the steps taken at the national level, FCI Elkton itself has also taken a number of additional measures in response to the COVID-19 pandemic, including providing inmate and staff education; conducting inmate and staff screening; putting into place testing, quarantine, and isolation procedures in accordance with BOP policy and CDC guidelines; ordering enhanced cleaning and medical supplies; and taking a number of other preventative measures.

#### **INMATE AND STAFF EDUCATION RELATING TO COVID-19**

22. From the outset of the COVID-19 pandemic, FCI Elkton officials have provided regular updates to inmates and staff regarding the virus and the BOP's response, and have educated inmates and staff regarding measures that they themselves should take to stay healthy.

23. As I stated in my previous declaration in this matter, in late February-early March,

“Frequently Asked Questions” bulletins were created from CDC and WHO guidelines to educate inmates and staff regarding the symptoms of COVID-19, instructing them to self-monitor for COVID-19 symptoms, and to immediately report such symptoms to sick call. The inmate population and staff members have been told best practices regarding personal hygiene to prevent the spread of COVID-19. The bulletins are posted in numerous locations around FCI Elkton.

24. Staff have also been trained to appropriately “don” and “doff” (off) Personal Protective Equipment (PPE) utilizing CDC guidelines found on the BOPs intranet and trainings with Health Services Staff.

#### **SCREENING FOR COVID-19 AT FCI ELKTON - INMATES**

25. When new inmates arrive, they are met by medical providers from the Health Services Department, who conduct an initial screening in a designated area at FCI Elkton separate from other staff and inmates. The medical providers wear PPE during the screening process.

26. Following this initial screening, new inmates are escorted to a quarantine unit at FCI Elkton. There, they are quarantined for 14 days to ensure that they do not develop any symptoms consistent with COVID-19. If they do have symptoms consistent with COVID-19 infection, they are placed in a separate isolation unit. The isolation unit is used for all symptomatic inmates and inmates with a positive COVID-19 test. In these quarantine and isolation units, all staff must wear PPE; inmates in quarantine or isolation are required to wear a surgical mask.

27. After the expiration of 14 days, and upon medical clearance, inmates may be released

into the general population.

28. This initial screening procedure at FCI Elkton allows for screening to occur in a controlled environment, and further ensures the rest of the inmate population are not exposed to newly-arrived inmates until they are properly screened and cleared by Health Services Department medical providers.

29. In addition to screening incoming inmates, FCI Elkton is also taking a number of measures to screen its current resident inmate population.

30. FCI Elkton screened inmates for elevated temperatures daily from March 20, 2020 through April 12, 2020. This screening was discontinued in favor of inmate self-reporting.

31. Inmates who self-report COVID-19 symptoms are screened for symptoms of COVID-19 (including fever, cough, and shortness of breath), as well as for “exposure risk factors,” including whether the inmate has had close contact with anyone diagnosed with COVID-19 in the past 14 days. The screening takes place in a single, controlled area separate and apart from other inmates and prison staff.

32. The Health Services Department reviewed inmate medical records in order to determine which individuals at FCI Elkton were considered “high risk” for COVID-19 pursuant to CDC guidelines. These guidelines can be found at: <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html>. Per CDC guidance, “high-risk” individuals include those over 65 and those with significant underlying medical conditions, such as chronic lung disease, moderate to severe asthma, liver disease, and diabetes.

33. In order to identify which inmates at FCI Elkton should be considered “high risk,” staff searched the BOP’s medical records for (1) all inmates aged 65 and over; and (2) all inmates who have been diagnosed with a condition identified by the CDC as being “high risk.”

Like all inmates at FCI Elkton these inmates continue to be screened for symptoms related to COVID-19 and temperatures.

34. FCI Elkton is also conducting enhanced screening for all inmates with ongoing work details, such as food service and cleaning orderlies. These functions are considered to be “essential” by FCI Elkton. Each of these inmates is screened for illness both before and after each of their assigned work details. This includes being screened for any symptoms of illness and having their temperature taken. Furthermore, many cleaning orderlies are currently assigned only to the units in which they already reside and thus do not interact with staff or inmates in other units during the course of performing their duties. Inmates who do move between units are required to wear appropriate PPE and reminded to maintain social distancing to avoid spreading the virus between units.

35. All inmates are encouraged to self-monitor and to report symptoms of illness to unit staff either orally or via a written request to staff (commonly referred to as a “cop-out” within BOP institution).

36. Any inmate who presents with symptoms consistent with COVID-19 will be evaluated by a medical provider in the Health Services Department. Based upon this evaluation, a determination will be made whether isolation and/or testing is appropriate. As noted above, certain units at FCI Elkton have been designated as the isolation unit for inmates who are symptomatic and/or test positive for COVID-19.

37. FCI Elkton medical providers are prioritizing immediate medical care for anyone who experiences symptoms indicative of a COVID-19 infection.

## **STAFF AND VISITORS**

38. Since March 22, 2020, all individuals entering FCI Elkton (including staff, delivery drivers, or any other visitors) must undergo a health screening prior to entry, the screening occurs while the individual is in their vehicle. This includes having their temperature taken and being asked a number of health screening questions based on the BOPs guidance to evaluate their risk of exposure, as well as whether they have been experiencing any symptoms of illness.

39. The individuals conducting this health screening are authorized to deny entry to any individual if he or she has a body temperature of 99 degrees Fahrenheit, or above, or reports other symptoms consistent with COVID-19 (although it was recommended that they consult with FCI Elkton medical providers in advance of the decision to deny entry).

40. FCI Elkton employees have also been educated regarding the importance of staying home if they are feeling ill, and are required to self-report any COVID-19 exposure (known or suspected) as well as any positive COVID-19 test. If a staff member is tested for COVID-19, they are not permitted to return to work until after receiving the results of the test.

## **COVID-19 TESTING AT FCI ELKTON**

41. FCI Elkton is conducting testing in accordance with CDC guidelines. The CDC has explained that not everyone needs to be tested for COVID-19, and decisions about testing are at the discretion of state and local health departments. See [www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/testing.html](http://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/testing.html) (last visited on Apr. 30, 2020).

42. As discussed in my previous declaration in this matter, the CDC has identified four “priority levels” for testing individuals with a suspected COVID-19 infection. Priority levels one through three include hospitalized patients and healthcare workers with symptoms (Priority

Level 1); symptomatic patients in long-term care facilities, individuals 65 years or older, individuals with underlying conditions, and first responders (Priority Level 2); and symptomatic critical infrastructure workers, individuals who do not meet any of the criteria in Priority Levels 1 or 2, healthcare workers and first responders, and individuals with mild symptoms in communities experiencing high numbers of COVID-19 hospitalizations (Priority Level 3). The fourth, or non-priority level, is for individuals without symptoms.

43. At FCI Elkton, the decision whether to test an inmate for COVID-19 is made by BOP medical providers based on a number of criteria, including but not limited to: (1) the nature and severity of the symptoms; (2) the inmate's potential exposure to COVID-19; (3) whether the inmate is considered "high-risk," and (4) whether the inmate is on a work detail, such as food service, that requires the inmate to interact with other inmates or staff.

44. In addition to the information I provided previously in this matter, on April 16, 2020, FCI Elkton received an Abbott testing machine and 250 testing cassettes. The Abbott machine was removed on April 21, 2020; however, a second Abbott machine was delivered on April 29, 2020 with an additional 250 test cassettes. I have been informed that an additional 432 tests will be coming to FCI Elkton within the week and possibly another Abbott testing machine.

45. The current testing strategy involves:

- A. Testing all inmates in quarantine. Inmates testing negative will be tested again prior to release/transfer date.
- B. Then, all FSL inmates will be tested by housing units. Housing units will be cohorted together until all results from the unit are received. They will then be either placed in to isolation or remain cohorted with their units.
- C. Then all essential workers from the FCI will be tested.

D. Finally, all inmates from the FCI will be tested by housing units. We are currently working on the logistics of this and testing cycles.

46. FCI Elkton has contracted with an outside laboratory, (Quest Diagnostics), who will provide the turn-around time (24-48 hours) on testing that FCI Elkton needs. In addition to the 432 tests mentioned above, Quest Diagnostics provided FCI Elkton with an additional 400 test swab kits on May 7, 2020, and say they will provide an additional 150-200 tests each day after that. The logistics of this mass testing are being finalized and should only be limited by how often Quest can pick up the tests.

47. As of May 8, 2020, 134 FCI Elkton inmates have tested positive for COVID-19. 130 inmates have tested negative using the Abbott machine. Of the 357 staff members who work at FCI Elkton, 50 staff members who have tested positive for COVID-19, and 9 staff members have tested negative. There have been 9 inmate deaths related to COVID-19.

#### **OPERATIONAL CHANGES TO IMPLEMENT COVID-19 ACTION PLAN**

48. FCI Elkton has implemented BOP's national action plan, in compliance with BOP's national directives.

49. The implementation of the BOP's COVID-19 Action Plans at FCI Elkton can best be described as a "slowing down" of institutional operations, designed to limit the size of groups inmates can form and also the ability of these smaller groups to interact with each other at FCI Elkton. This minimizes the opportunity for inmates to come into contact with infected persons, and if they do, minimizes the possibility that any infection will spread beyond the smaller group.

50. In general, the smaller inmate groups at FCI Elkton were formed by dividing inmates by housing unit, and by floor, so they can 'shelter in place' with the fewest number of fellow

inmates. In order to reduce idle time and provide programs and activities, these groups are rotated through the recreation facility by themselves, and disinfection of the recreation facility is performed before the next group is rotated through it. Programs are delivered on the units, to include Education, Psychology, and Religious Services (especially in consideration of the Ramadan observance). Restrictions are in place to maintain separation between housing units. For example, only one housing unit is released to the cafeteria for “grab and go” meal service. The next unit is not released until the previous unit has returned to their housing quarters. When inmates need to report to Health Services for activities which cannot be performed on the unit (medication administration, etc.), they report to the clinic only with other inmates from their group. Once at the clinic, they wait in areas designed to facilitate social distancing.

51. As discussed in my previous declaration in this matter, FCI Elkton uses isolation to separate inmates who present with symptoms consistent with COVID-like illness from quarantined asymptomatic or general population inmates. These areas are distinct from the aforementioned housing unit groups and identified with signs prior to entering the unit. Staff are required to utilize proper PPE prior to entering these units to minimize the potential for cross-contamination between units. Inmates have surgical masks to wear when interacting with staff or leaving the assigned cell and their proximity to staff and other inmates is minimized. Medical staff determine if COVID-19 testing is necessary based on applicable guidelines and community standards. If the inmate’s condition merits hospitalization, the inmate will be transported to a local hospital.

52. FCI Elkton uses quarantine to separate asymptomatic inmates who have been in contact with symptomatic inmates during the incubation period, which is up to 14 days for COVID-19. Inmates are housed together during this 14-day period with other asymptomatic

inmates in a housing unit. Steps are taken to not add or introduce new inmates to a quarantine housing unit after the 14-day quarantine clock has started. At the end of the 14-day period, the inmates may be released from quarantine if no inmates develop COVID-19 symptoms or are diagnosed with COVID-19. If additional inmates present with symptoms during the incubation period, these symptomatic inmates are isolated and the 14-day quarantine period begins anew. Inmates receive daily temperature checks and if any symptoms are reported, they are documented. If an inmate becomes symptomatic or has a temperature of greater than or equal to 99 F, the inmate is brought to Health Services for evaluation and possible placement in isolation. The FCI quarantine area is the Chapel. It can hold approximately 40-60 inmates at one time. Some inmates are also placed in SHU to minimize the possibility of exposure/conversion. The FSL quarantine area is located in the Psychology Services office. It can hold approximately 40 people. If someone tests positive prior to being released, they are moved to isolation for 10 days. The quarantine clock starts over for the remainder of the inmates in the unit.

53. In addition to the areas designated for quarantine and isolation, FCI Elkton's infirmary has acted as a step down unit for inmates returning from hospitalization for COVID-19 symptoms. FCI Elkton has also identified post-isolation locations that can be used in the FCI Part of Recreation) and the FSL (Chapel).

54. In order for an inmate to be removed from isolation, the inmate must be fever free for 72 hours (no other symptoms) and 10 days must have passed since the first symptom(s) appeared. This is consistent with CDC guidelines. Generally, inmates who show no symptoms after 10 days are moved from isolation to post-isolation recovery. Once in post-isolation recovery they remain there until their total time equals 21 days, which is speculated to be the time for antibodies to form.

55. Quarantine inmates are tested prior to entering quarantine. Inmates who show no sign of fever or symptoms for a full uninterrupted 14 days will be cleared and removed from quarantine. If the inmate is releasing, they will be re-tested within 24 hours of release. This will ensure two negative readings prior to release to a Residential Reentry Center or home confinement.

56. As of May 8, 2020, there were 35 inmates in isolation in the FCI and 37 inmates in isolation in the FSL.

57. As of May 8, 2020, there were 43 inmates in quarantine in the FCI (including 8 inmates in the FCI SHU), and 6 inmates in quarantine in the FSL.

58. As of May 8, 2020, there was 1 inmate in post-isolation in the FCI and 3 inmates in the FSL.

59. As of May 8, 2020, there were 20 inmates from FCI Elkton in the hospital for COVID related issues, including 7 inmates currently on ventilators. This constitutes a significant decrease from previous levels. Specifically, in mid-April, there were 45 FCI Elkton inmates at the hospital and approximately 18 inmates were intubated.

60. I have included as Attachment A to the declaration a series of charts that show the progression of the pandemic at FCI Elkton. These charts include the number of inmates sent to local hospitals for COVID-19 related issues, the number of FCI Elkton inmates at local hospitals, the number of inmate deaths, the number of intubations, the number of FCI Elkton staff who tested positive, and the number of inmates in isolation.

## HYGIENE AND SAFETY PRACTICES AT FCI ELKTON

61. Maintaining institutional and personal hygiene is always a priority in a correctional setting. Since the COVID-19 pandemic however, institutional and personal hygiene has been elevated to the utmost importance, especially since inmates have been largely restricted to their housing units since implementing Phase Five of the COVID-19 Action Plan. Maintaining the highest standards of institutional and personal hygiene during modified operations is not only important for purposes of infection control, but also to minimize the possibility of disturbances or other events which might compromise the security and good order of the institution.

62. The Safety Department at FCI Elkton is responsible for distributing cleaning supplies throughout the institutions. These include but are not limited to cleaning chemicals, spray bottles, cleaning rags and applicators, and the equipment necessary to perform cleaning tasks. The chemicals used for cleaning at FCI Elkton are distributed to all areas of the institution on a regular schedule, and if any particular area requires additional cleaning supplies, staff assigned to that area can make arrangements with Safety to receive more. I am not aware of Safety ever having run out of cleaning supplies since the COVID-19 crisis began at FCI Elkton.

63. Currently, four specific cleaners are being used at FCI Elkton. TriBase 17 Multi-Purpose Cleaner, hdqC2 disinfectant cleaner, and Formula 66 air freshener have been the ordinarily employed cleaning chemicals at FCI Elkton. Since the beginning of the COVID emergency however, a broad spectrum disinfectant (“Virex II/256”) has been added to specifically address the coronavirus threat. Virex II/256 is now used throughout the institution.

64. Prior to this pandemic, chemicals used for cleaning at FCI Elkton were distributed throughout the institutions on a regular weekly and monthly schedule. In between the regularly-

scheduled distribution, staff were always able to request additional cleaning supplies if they were needed.

65. Since the current emergency however, FCI Elkton has gone to a daily distribution of cleaning supplies. On weekdays an institution-wide announcement is made for staff to place their cleaning bottles outside the doors of their housing units, and Safety Department staff refill or replace needed supplies. While prior to the pandemic inmate orderlies would report to Safety to retrieve these supplies, in order to maintain the integrity to the group quarantine, staff now perform these functions. Of course, if additional supplies are needed during the day, staff can coordinate the delivery of these items with the Safety Department.

66. Once in the housing units, cleaning supplies are maintained in small caddies or bins kept in staff offices or closets. Inmates can then ask for a bin of cleaning supplies to bring back to their living areas.

67. Large area disinfection is being performed at both the FSL and FCI through use of backpack cleaning chemical sprayers. This work is performed by inmate orderlies or staff, depending on the location (inmates cannot perform this work in an area where they might come into contact with inmates not in their quarantine group). Whether by backpack unit or spray bottles, inmate orderlies (working only within their unit, to maintain the integrity of the group quarantine) are cleaning all high-touch areas such as doorknobs, railings, knobs, and handles multiple times per day.

#### **AVAILABILITY OF SOAP AND OTHER PERSONAL HYGIENE PRODUCTS**

68. Inmates at FCI Elkton are provided with basic soap and personal hygiene products (razors, toothbrushes, toothpaste, etc.) by the institution. These toiletries are maintained by staff

whose offices are located in the housing units, so there is never a reason an inmate should not have access to soap at FCI Elkton.

69. FCI Elkton also operates a centralized laundry, and inmates in this facility have their clothes (institution issued as well as personal articles purchased from commissary) washed for them by the laundry department. Inmates are provided with no-cost washers/dryers/laundry soap which they can use to clean clothes and linens.

70. Beyond that, the commissary at FCI Elkton allows inmates to purchase toiletries, medication, food, and other items not issued regularly as part of the institution administration. Similar to the offerings at any convenience store, the commissary at FCI Elkton offers a selection of different soaps, to include familiar national brands such as Irish Spring, Dove, Pure Antibacterial, Noxema, and Neutrogena. Inmates can also buy Ajax dish detergent and laundry detergent from the commissary.

#### **STATUS OF PPE**

71. Staff and inmates at FCI Elkton have, and will continue to have, access to appropriate PPE.

72. PPE is available for all staff at FCI Elkton to wear throughout their shift. Staff are required to wear these masks, and failure to do so may be cause for employee discipline under terms of Program Statement 3420.11, Standards of Employee Conduct. Staff are encouraged to use PPE prior to coming to work.

73. There are areas of the institution where staff might require additional PPE to perform their duties. These areas include but are not limited to Health Services, Receiving & Discharge, and isolation housing units. In these areas kits have been assembled which contain the enhanced

PPE to be used in that area (for example, gown, gloves, N-95 particulate respirators, face shields) and are always available. When the number of kits gets low, staff contact Health Services and additional kits are provided. In addition, kits are maintained in other areas of the institution (Control Center, Lieutenant's Office) to ensure availability during all hours of the day.

74. Throughout the institution and while working posts at the outside hospital, Correctional Officers are provided with PPE appropriate for their assigned post.

75. Staff are instructed as to the proper use of PPE through various memoranda detailing the type of PPE required at a given post or for a specific duty. Memoranda have also been circulated to instruct staff as to the proper donning/doffing of PPE, and video instruction is also available on the computer desktop of every FCI Elkton employee.

76. Inmates at FCI Elkton were initially provided with two of the same surgical masks provided to staff. Once FCI Elkton was able to procure cloth masks, two of these masks were issued to every inmate. Upon request, inmates will still be provided with the same surgical masks provided to staff. Inmates are required to wear these masks at all times except when they are eating or sleeping, and failure to do so may make the inmate subject to discipline under Program Statement 5270.09, Inmate Discipline Program.

77. Inmates performing cleaning or orderly duties have always, and will continue, to have access to gloves or other PPE as may be necessary for them to perform their assigned duties.

78. Correctional staff have been provided PPE to be used in appropriate locations throughout FCI Elkton such as quarantined areas, isolation units, and screening sites. FCI Elkton has sufficient PPE on hand, including N-95 respirator masks, surgical masks, medical gloves,

gowns, and foot coverings to meet its current and anticipated needs, as well as the ability to order additional PPE should the need arise.

### **REVIEWS OF FCI ELKTON**

79. Along with tours conducted by DOJ and BOP executive staff, a number of external public health official have monitored the medical situation at FCI Elkton.

80. The FCI Elkton Warden has been in contact with the Ohio Department of Health. The Ohio Department of Health is reporting that they compare FCI Elkton to a nursing home, based on the proximity of people and care provided. These officials have observed that nursing homes have not been as successful as FCI Elkton in stopping the spread of COVID-19. Generally, if this disease gets in to a nursing home it decimates the population.

81. The FCI Elkton Health Services Department has been in contact with the Columbiana County Health Department since early March. They, too, were impressed by the planning that the Health Services Department had/has done in response to the pandemic. Early implementation of sanitation controls, hand hygiene information, and statistics have been essential in stopping the spread.

82. Towards the end of March, 2020, the FCI Elkton Health Services and Executive staff were having daily conference calls with the Ohio Department of Health, the Columbiana County Health Department, local hospitals, senators and congressmen from Ohio.

### **DEDICATION OF BOP STAFF**

83. FCI Elkton Health Services staff members have worked tirelessly to ensure that every inmate is safe from the effects of this pandemic. They have been on 12 hours shifts since March

29, 2020. They have provided 24-hour medical coverage since the beginning of April. Health Services staff have completed temperature checks, testing, medical emergencies, patient management, Sick Call concerns, and medication renewals. My staff has done everything possible to care for these sick inmates, as well as inmates who were sick with non-COVID maladies, for weeks on end. I have watched my staff go without food, water, and bathroom breaks to ensure that only the best patient care is provided and institution operations are covered.

84. All BOP employees, including those at FCI Elkton, understand the importance of caring for all inmates and staff in this crucial time for our nation. However, we are aware that rushing to action without proper planning can lead to horrible or even tragic results for inmates, staff, and the communities we serve. The staff at all BOP institutions, including at FCI Elkton, must review and evaluate the particular situation of each inmate. On April 23, 2020, a FCI Elkton inmate was placed in quarantine in the SHU. He was swabbed for COVID on April 30, 2020, and tested positive. However, he was a full term release from FCI Elkton on May 1, 2020. He was set to live with his grandmother, who, upon finding out that he was positive, refused to let him live there. The Health Services Department was notified earlier this week that this inmate was staying at a homeless shelter.

85. My Department started planning for COVID in late January through early March. I instructed my staff to screen ANY inmate that came to Elkton for COVID starting the week of March 1, before the DOJ or BOP required this. I instructed my staff to start stock-piling supplies and inventorying it the second week of March. I mandated PPE for my providers before being told to do so by DOJ or BOP. I instituted temperature checks in the units for every inmate as a form of triage beginning on March 27, 2020. I instructed my Infectious Disease Nurse to start pulling rosters of the inmates at risk for COVID every time the CDC changed their guidance.

FCI Elkton Health Services have been heroes in their response to this pandemic. The selfless services is humbling to see and participate in. Not once have I been asked, "Why do I have to do this?" or heard someone argue with me about what needs to be done. These providers simply do it. Care for the inmates has not declined during the pandemic.

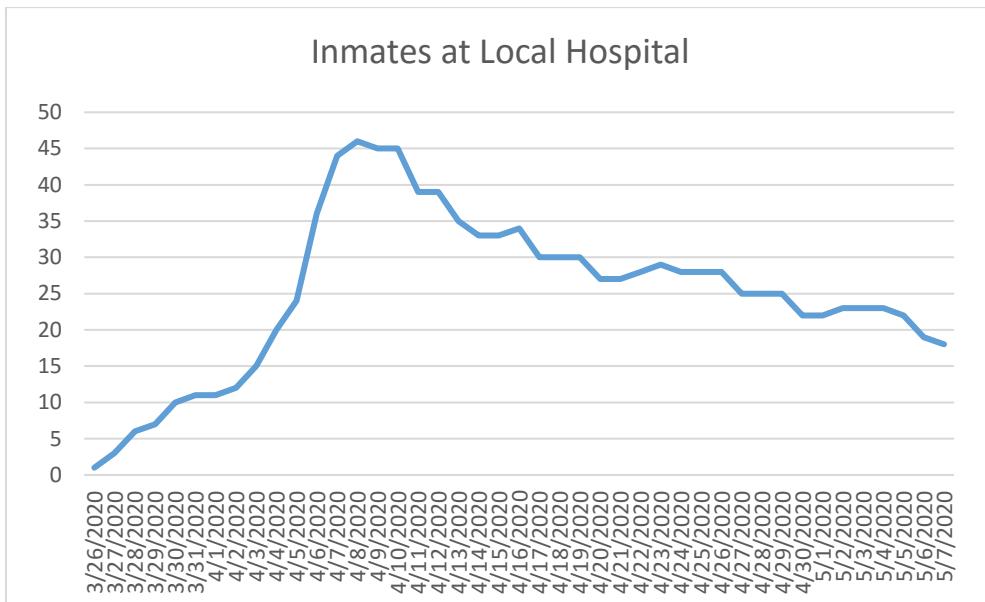
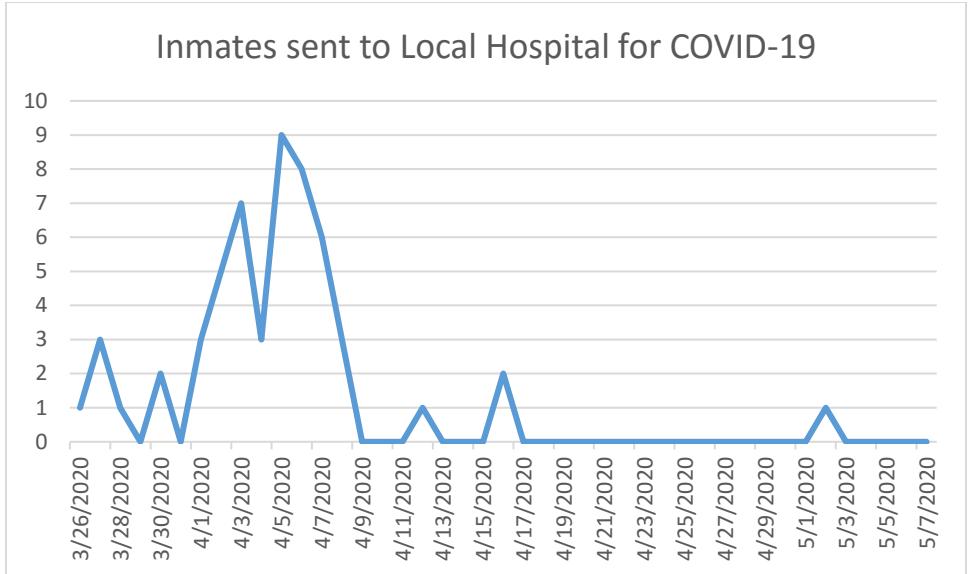
86. I have successfully advocated to bring awareness to the BOP about the effects the pandemic can have on a system or institution. I have advocated for screenings of both staff and inmates, and for cohorting of the population before it was mandated by the BOP. I have advocated for tighter sanitation controls, for better protection for both the inmates and staff, for more testing for inmates, and for mass testing. I have worked with the National Guard to ensure that appropriate patients were returned to the institution to relieve the burden on the local community and custody staff.

I declare that the foregoing is true and correct to the best of my knowledge and belief, and is given under penalty of perjury pursuant to 28 U.S.C. § 1746 this May 8, 2020.

RESPECTFULLY SUBMITTED,



SARAH A. DEES  
Health Services Administrator  
FCI Elkton



ATTACHMENT

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